

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Stephen F. Brown et al.

Application No.: 10/762,829

Filed: January 21, 2004

For: METHOD AND APPARATUS FOR
HANDLING VIDEO
COMMUNICATION ERRORS

Customer No.: 20350

Confirmation No. 6128

Examiner: Y. Young Lee

Technology Center/Art Unit: 2621

RESPONSE TO RESTRICTION
REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement mailed October 19, 2007, Applicants elect Species 2 (Claims 4, 6-9, 11, and 13-59) with traverse. As an initial matter, Applicants note that the species restriction requirement is improper since the Examiner has not established a *prima facie* case that the species restriction is appropriate. As set forth in MPEP §808, every restriction requirement must state the reasons (as opposed to mere statements or conclusions) why the restriction is proper and why there would be a serious burden on the Examiner if restriction is not required. See e.g., §§ 808, 808.01. For a species restriction requirement, the Examiner is also preferably required to identify figures or examples associated with the species or in absence of such "identify the several species, the mechanical means, the particular material, or other distinguishing characteristic of the species. See §809.02(a).

The current Restriction Requirement establishes none of these requirements. Instead, the Restriction Requirement merely lists the pending claims and provides a conclusory statement that the claims are directed towards patentably distinct species. If the Examiner disagrees on this issue, Applicants respectfully request that the Examiner provide detailed

reasons in conformance with MPEP §§ 808 and 809 as to why the species restriction is believed to be appropriate.

In absence of a detailed rationale by the Examiner as to why the species election is appropriate (e.g., information on what figures, mechanical means, etc. define the species), it is difficult for Applicants to provide further comments traversing the restriction. Applicants note, however, that the pending independent claims recite "an encoder" (claim 4) and "re-encoding" (claim 11), which is illustrated, for example, by element 29 (Encode block) in FIG. 4.

In view of the above, Applicants respectfully request withdrawal of the species restriction requirement. If the species restriction is maintained, Applicants respectfully request the Examiner provide detailed reasons in conformance with MPEP §§ 808 and 809 as to why the species restriction is believed to be appropriate.

Respectfully submitted,

/Craig C. Largent/

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